

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

JEAN SMITH, *as personal representative
of the Estate of Jerry Smith*,

Civ. No. 1:17-cv-00931-CL
OPINION & ORDER

Plaintiff,

v.

CITY OF MEDFORD,

Defendant.

AIKEN, District Judge.

On June 21, 2023, Magistrate Judge Mark Clarke issued his Findings and Recommendation (“F&R”), ECF No. 135, recommending that Defendant's Second Motion for Summary Judgment, ECF No. 107, should be granted and that Plaintiff's Motion for Partial Summary Judgment, ECF No. 101, should be denied. Plaintiff filed objections on July 26, 2023, ECF No. 139, and Defendant filed a response on August 9, 2023, ECF No. 140.

This Court has reviewed de novo the portions of the F&R to which Defendant objected. This Court accepts Judge Clarke's conclusions and ADOPTS Judge Clarke's F&R in full.

STANDARDS

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

If a party objects to a magistrate judge's F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has carefully reviewed de novo the portions of Judge Clarke’s F&R to which Plaintiff objected. Judge Clarke’s F&R, ECF 135, is adopted in full. Defendant's Second Motion for Summary Judgment, ECF No. 107, is GRANTED and Plaintiff’s Motion for Partial Summary Judgment, ECF No. 101, is DENIED.

It is so ORDERED and DATED this 15th day of November 2023.

/s/Ann Aiken
ANN AIKEN
United States District Judge